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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,752	12/12/2001	Daryl Carvis Cromer	RPS9 2001 0053	8650
47052	7590	03/03/2006		
SAWYER LAW GROUP LLP PO BOX 51418 PALO ALTO, CA 94303			EXAMINER ARAQUE JR, GERARDO	
			ART UNIT	PAPER NUMBER
			3629	

DATE MAILED: 03/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/020,752	Applicant(s) CROMER ET AL.	
	Examiner Gerardo Araque Jr.	Art Unit 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2001 December 12th.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 - 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12-13-2001</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1 – 18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The applicant fails to fully describe the mathematical process as to how a default system is determined. The specifications only disclose that a mathematical process of, "...multiplying the segment variable, inventory variable, and, where applicable, performance variable for each decision required in providing the default offering," but fails to actually show and give an example of how this process is carried out.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1 – 18 are rejected under 35 U.S.C. 101 because the number assigned to the segment variables are subjective and, therefore, fails to produce a "**concrete**" result. Usually, this question arises when a result cannot be

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assured. In other words, the process must have a result that can be substantially repeatable or the process must substantially produce the same result again. In re Swartz, 232 F.3d 862, 864 (Fed. Cir. 2000) (where asserted result produced by the claimed invention is “irreproducible” claim should be rejected under section 101). The opposite of “concrete” is unrepeatable or **unpredictable**. Resolving this question is dependent on the level of skill in the art. For example, if the claimed invention is for a process which requires a particular skill, to determine whether that process is substantially repeatable will necessarily require a determination of the level of skill of the ordinary artisan in that field. An appropriate rejection under 35 U.S.C. § 101 should be accompanied by a lack of enablement rejection under 35 U.S.C. § 112, paragraph 1, because the invention cannot operate as intended without undue experimentation. *See infra*.

The examiner understands the specifications as a person choosing these numbers and, as a result, will produce different results. Several people would have different views as to what is important and essential to a system and would assign different values based on their views.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. **Claims 1 – 9, 10 – 18, and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Henson (US Patent 6,167,383) in view of Lynch-Freshner et al. (US Patent 5,668,997).

In regards to **claim 1**, Henson discloses a method for a configuration system that allows a user to select the type of business that the computer will be used for, i.e. home/personal use (Column 11 Lines 63 – 67) or a business user (Column 13 Lines 6 – 17, 29 – 33). Moreover, Henson discloses that the user has the option of selecting several types of configuration options, such as the desired performance level of the desired system (Figures 3, 4, and 5) and is presented with merchandising recommendations, such as generic text about a particular product, feature, and/or option (Column 7 Lines 22 – 29). Furthermore, before the user is presented with the configuration menu the online store that Dell offers, provides the user with information of the system and the several default configurations of the chosen system

(http://web.archive.org/web/20000511045940/www.dell.com/us/en/dhs/products/line_desktops.htm

http://web.archive.org/web/20000511074752/www.dell.com/us/en/dhs/products/series_dimen_desktops.htm

http://web.archive.org/web/20000618194040/www.dell.com/us/en/dhs/offers/offer_3x_offer02.htm). However, Henson does not teach a dynamic system in which

the information regarding the business segment and performance level is used to present the user with a default system. However, Lynch-Freshner does teach a server that accepts parameters from a client and produces a window in

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accordance with the parameters with the use of a program, such as C++ (Column 4 Lines 60 – 66, Column 8 Lines 1 – 8). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention in view of the teaching of Lynch-Freshner to modify Henson to include a dynamic system of receiving parameters, such as a business segment and performance level, from a user and producing a window in accordance with the parameters, such as a default system based on the selected business segment and performance level.

In regards to **claims 2 and 11**, Henson discloses, “In accordance with the online store of the present disclosure, upon a recognition of who a particular customer is (e.g., or in what customer set), the online store takes out the unrelated options and departments, and does not present them to the customer as options for the customer (Column 13 Lines 29 – 34).”

In regards to **claims 3 – 4 and 12 – 13**, in order for the system described in Lynch-Freshner, some type of computational calculation must be made in order to present a user with a window that will be in accordance with the parameters that are received from the client. Moreover, Lynch-Freshner discloses a concept of polymorphism with the use of a C++ compiler, “...which allows objects and functions which have the same overall format, but which different data, to function differently in order to produce consistent results. For example, an addition function may be defined as variable A plus variable B (A+B) and this same format can be used whether A and B are numbers, characters or dollars and cents (Column 7 Lines 56 – 62).”

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In regard to **claims 5 – 6 and 14 – 15**, the online store that is described in Henson provides the user with several options of the default systems based on the selected business segment and performance level from the user (http://web.archive.org/web/20000618194040/www.dell.com/us/en/dhs/offers/offer_3x_offer02.htm).

In regards to **claims 7 and 16**, Henson discloses that the online store improves on the quality of buying online by optimizing on the responsiveness of customer requests, such as availability and speed (Column 16 Lines 58 – 61).

In regards to **claims 8 and 17**, Henson discloses the concept of lead-time on the online store. Warnings are presented to the customer in the case that there is a long lead-time. It is well known in the art that lead-time is closely associated with the amount of stock that is available for a particular item (<http://www.xreferplus.com/entry.jsp?xrefid=1414013&secid=-&hh=1> <http://www.xreferplus.com/entry.jsp?xrefid=1412740>) and that a long lead-time signifies that there is a low amount of a particular item in stock.

In regards to **claims 9 and 18**, Henson discloses that the online store will allow a customer to pick and choose which components the customer would want to improve on the base system that was provided (Column 6 Lines 18 – 21).

In regards to **claim 10**, Henson discloses configuration system that allows a user to select the type of business that the computer will be used for, i.e. home/personal use (Column 11 Lines 63 – 67) or a business user (Column 13 Lines 6 – 17, 29 – 33). Moreover, Henson discloses that the user has the option of selecting several types of configuration options, such as the desired

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performance level of the desired system (Figures 3, 4, and 5) and is presented with merchandising recommendations, such as generic text about a particular product, feature, and/or option (Column 7 Lines 22 – 29). Furthermore, before the user is presented with the configuration menu the online store that Dell offers, provides the user with information of the system and the several default configurations of the chosen system

(http://web.archive.org/web/20000511045940/www.dell.com/us/en/dhs/products/line_desktops.htm

http://web.archive.org/web/20000511074752/www.dell.com/us/en/dhs/products/series_dimen_desktops.htm

http://web.archive.org/web/20000618194040/www.dell.com/us/en/dhs/offers/offer_3x_offer02.htm). However, Henson does not teach a dynamic system in which

the information regarding the business segment and performance level is used to present the user with a default system. However, Lynch-Freshner does teach a server that accepts parameters from a client and produces a window in accordance with the parameters with the use of a program, such as C++, that is executed by a computer (Column 4 Lines 60 – 66, Column 8 Lines 1 – 8).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention in view of the teaching of Lynch-Freshner to modify Henson to include a dynamic system of receiving parameters, such as a business segment and performance level, from a user and producing a window in accordance with the parameters, such as a default system based on the selected business segment and performance level.

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In regards to **claim 19**, Lynch-Freshner discloses a computer (Figure 3) programmed with C++ for the use of object-oriented programming techniques (Column 6 Lines 58 – 64). This, in turn, will allow the computer to accept parameters to create window objects in accordance with the parameters that were given (Column 4 Lines 65 – 66). Moreover, "If the particular parameters are not present the window is displayed using a default layering scheme, and the window takes on parameters associated with the already displayed windows (Column 5 Lines 9 – 12)."

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. Bealkowski et al. (US Patent 5,193,174) – Bealkowski discloses an apparatus and method for configuring a personal computer system for operation with a plurality of operational system consoles.
2. Anderson et al. (US Patent 5,903,905) – Anderson discloses a method for simultaneously constructing and displaying a dynamic preview display of a document.
3. Herz et al. (Publication Number US 2001/0014868 A1) – Herz teaches a system for customizing prices and promotions tailored to shoppers or types of shoppers.

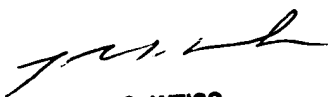
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerardo Araque Jr. whose telephone number

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is (571)272-3747. The examiner can normally be reached on Monday - Friday
8:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the
examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax
phone number for the organization where this application or proceeding is
assigned is 571-273-8300.

Information regarding the status of an application may be obtained from
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system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-
free).


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